

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

April 16, 2007

At 9:30 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Sims, Associate Justice; Butz, Associate Justice; Cantil-Sakauye, Associate Justice; and Harper, bailiff.

C051222 THE PEOPLE v. HARRIS

Cause called. Johnny L. Griffin, III argued for appellant. Christina D. Hitomi, Deputy Attorney General, argued for respondent. Cause submitted.

C052657 ATTORNEY RECOVERY SYSTEMS, INC. . MARTIN et al.

Cause called. Dan Martin, In Pro Per, argued as appellant and Shari Martin, In Pro Per, appeared only as appellant. Kurt A. Miller argued for respondent. Cause submitted.

At 10:07 a.m., the court recessed. At 10:13 a.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C050105 THE PEOPLE v. CHRISTENSEN

Cause called. Barbara Coffman, court appointed counsel, argued for appellant. Peter W. Thompson, Deputy Attorney General, argued for respondent. Cause submitted.

C051082 THE PEOPLE v. MILLER

Cause called. Laura Schaefer, court appointed counsel, argued for appellant. J. Robert Jibson, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:13 a.m., the court recessed. At 2:02 p.m., the court reconvened with Davis, Associate Justice; Hull, Associate Justice; and Cantil-Sakauye, Associate Justice.

C052158 BRUN v. TRUCKEE-TAHOE AIRPORT DISTRICT et al.

Cause called. Jeffrey Winikow argued and Robert V. Cohune appeared only for appellant. Thomas L. Riordan argued and Carl L. Fessenden appeared only for respondents. Cause submitted,

At 2:26 p.m., the court recessed until 9:30 a.m., Tuesday, April 17, 2007.

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Cause called. Shawn M. Krogh argued for appellants. Anna J. Niemann argued for respondents. Cause submitted.

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C052587 CANFIELD v. DOOLEY et al.

Cause called. Robert M. Merritt argued for appellant. Priscilla Fay Slocum argued for respondents. Cause submitted.

At 10:06 a.m., the court recessed. At 10:10 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

C051657 KING v. UNITED PARCEL SERVICE, INC. et al.

Cause called. Marjorie E. Manning argued for appellant. Sarah A. Jain argued for respondents. Cause submitted.

At 10:43 a.m., the court recessed until 9:30 a.m., Wednesday, April 18, 2007.

C052132 THE PEOPLE v. WRIGHT (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Morrison, Acting P.J.
Butz, J.

C052169 THE PEOPLE v. LUCERO, JR. (Not for Publication)

The judgment is reversed with directions to the trial court to conduct a hearing at which defendant shall have a full opportunity to state his reasons for desiring replacement of Everett with new counsel...

HULL, J.

We Concur: Sims, Acting P.J.
Nicholson, J.

C052782 THE PEOPLE v. MCNABB (Not for Publication)

The judgment is affirmed.

ROBIE, J.

We Concur: Morrison, Acting P.J.
Butz, J.

C050066 COUNTY OF AMADOR et al. v. CITY OF PLYMOUTH et al. and IONE BAND OF MIWOK INDIANS (CERTIFIED FOR PUBLICATION)

The judgment granting the petition for writ of mandate and enjoining the implementation of the MSA is affirmed. The County shall recover its costs on appeal for the Tribe...

BLEASE, Acting P.J.

We Concur: Sims, J.
Cantil-Sakauye, J.

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**C052975 YARRIGLE v. CALIFORNIA DEPARTMENT OF REAL ESTATE
(Not for Publication)**

The judgment is reversed and the matter is remanded to the trial court with directions to issue a peremptory writ of mandate. Costs are awarded to appellant.

BLEASE, Acting P.J.

We Concur: Davis, J.
 Butz, J.

**C053526 In re L.B.; NEVADA COUNTY HUMAN SERVICES AGENCY v. LEAH B.
C053692 (Not for Publication)**

The orders denying appellant's petition for modification and terminating her parental rights are affirmed.

MORRISON, Acting P.J.

We Concur: Robie, J.
 Butz, J.

**C050813 GARLOCK SEALING TECHNOLOGIES, LLC. v. NAK SEALING
TECHNOLOGIES CORP. and SUNRISE TRADING CO.
(CERTIFIED FOR PUBLICATION)**

THE COURT:

It is ordered that the opinion filed herein on March 21, 2007, be modified...

... The petition for rehearing is denied. This modification does not effect a change in the judgment.

RAYE, Acting P.J.

BUTZ, J.

CANTIL-SAKAUYE, J.

C051573 FORBES v. SPENCER et al. (Not for Publication)

THE COURT:

The typewritten opinion filed herein on March 27, 2007, is modified in the following manner...

... This modification does not change the judgment.

FOR THE COURT:

DAVIS, Acting P.J.

NICHOLSON, J.

MORRISON, J.

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At 11:23 a.m., the court recessed. At 11:24 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Morrison, Associate Justice.

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C051338 THE PEOPLE v. ROBINSON

Cause called. James M. Crawford, court appointed counsel, argued for appellant. Robert C. Nash, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:48 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Morrison, Associate Justice. And Robie, Associate Justice.

C051696 MILLER et al. v. FILTER et al.

Cause called. Thomas S. Knox argued for appellants. Klaus J. Kolb argued for respondents. Cause submitted.

At 2:53 p.m., the court recessed. At 2:56 p.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C051746 EICHER v. ADVANCED BUSINESS INTEGRATORS, INC.

Cause called. Cassandra M. Ferrannini argued and Daniel J. Coyle appeared only for appellant. Ross Bozartu argued for respondent. Cause submitted.

At 3:33 p.m., the court recessed until 9:30 a.m., Monday, May 14, 2007.

C048861 THE PEOPLE v. KHALAFALA (Not for Publication)

The judgment is affirmed. The sentence is vacated and the matter remanded to the trial court with directions to resentence defendant.

NICHOLSON, Acting P.J.

We Concur: Morrison, J.
Hull, J.

C052524 THE PEOPLE v. CORS (Not for Publication)

The judgment is affirmed.

SIMS, J.

We Concur: Scotland, P.J.
Morrison, J.

C052852 THE PEOPLE v. LEE (Not for Publication)

The judgment is affirmed.

Scotland, P.J.

We Concur: Sims, J.
Cantil-Sakauye, J.

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- C053239 THE PEOPLE v. VEILLON, JR. (Not for Publication)**
The judgment is affirmed, except that the matter is remanded to the trial court with directions... and send a certified copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.
SCOTLAND, P.J.
We Concur: Sims, J.
 Cantil-Sakauye, J.
- C053819 THE PEOPLE v. SMITH (Not for Publication)**
The judgment is affirmed.
BLEASE, Acting P.J.
We Concur: Davis, J.
 Morrison, J.
- C049577 SPINETTA v. COMPLETE WELDERS SUPPLY (Not for Publication)**
The judgment is affirmed. The trial court is directed to hear an application by defendant for costs and attorneys fees for services rendered on this appeal, and to fix and allow the reasonable value thereof, pursuant to the contract between the parties.
BUTZ, J.
We Concur: Nicholson, Acting P.J.
 Raye, J.
- C051752 McKINNON v. OTIS ELEVATOR COMPANY (CERTIFIED FOR PUBLICATION)**
The judgment in favor of Otis is reversed. Employee (McKinnon) shall recover her costs on appeal. (CERTIFIED FOR PUBLICATION.)
DAVIS, J.
We Concur: Scotland, P.J.
 Raye, J.
- C053890 In re D.M.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. C.G. (Not for Publication)**
The orders of the juvenile court are affirmed.
BLEASE, Acting P.J.
We Concur: Davis, J.
 Morrison, J.

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C051611 THE PEOPLE v. O'DELL (Not for Publication)

THE COURT:

The opinion filed April 2, 2007, in the above cause is modified...

... This modification does not change the judgment.

The petition for rehearing is denied.

SCOTLAND, P.J.

SIMS, J.

MORRISON, J.

C052470 THE PEOPLE v. EVANS

BY THE COURT:

Appellant's petition for rehearing is granted to permit consideration of a *Cunningham* claim. The decision on March 19, 2007, is vacated... Respondent may serve and file a supplemental letter brief within 20 days thereafter. Appellant may file a reply supplemental brief within 10 days thereafter.

SCOTLAND, P.J.

April 19, 2007

C050123 THE PEOPLE v. PARHAR (Not for Publication)

The judgment is affirmed. The matter is remanded to correct the judgment to reflect that the court security fee was imposed... The superior court is further directed to forward a copy of the amended abstract of judgment to the Department of Corrections and Rehabilitation.

NICHOLSON, Acting P.J.

We Concur: Morrison, J.

Hull, J.

MISC. ORDER 2007-007

BY THE COURT:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court On April 25, 2007, and April 26, 2007, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

C050287 THE PEOPLE v. SMITH (Not for Publication)

The judgment is affirmed.

NICHOLSON, Acting P.J.

We Concur: Morrison, J.

Hull, J.

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- C050840 THE PEOPLE v. KRAUSE (Not for Publication)**
The judgment is affirmed.
NICHOLSON, Acting P.J.
We Concur: Morrison, J.
Hull, J.
- C050715 CONDON-JOHNSON & ASSOCIATES, INC. v. SACRAMENTO MUNICIPAL
UTILITY DISTRICT (CERTIFIED FOR PUBLICATION)**
The judgment is affirmed. Condon-Johnson shall recover its costs on
appeal...
BLEASE, Acting P.J.
I concur: Cantil-Sakauye, J.
With regard to part III of the Discussion in the majority opinion and the
disposition, I respectfully dissent...
ROBIE, J.

April 20, 2007

- C050319 THE PEOPLE v. MORRIS (Not for Publication)**
The judgment is affirmed. The trial court is directed to (1) correct the
amended abstract of judgment... and (2) send a certified copy of the corrected
abstract to the Department of Corrections and Rehabilitation.
SCOTLAND, P.J.
I concur: Nicholson, J.
I respectfully dissent from part I of the opinion...
... I concur with the majority in all other respects.
Raye, J.
- C050933 THE PEOPLE v. CLOTFELTER (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
I concur: Scotland. P.J.
I concur except as to part IV of the Discussion in which I concur in the result.
RAYE, J.
- C051736 THE PEOPLE v. WAYMIRE (CERTIFIED FOR PUBLICATION)**
The judgment is affirmed.
Robie, J.
We Concur: Sims, Acting P.J.
Hull, J.

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- C051773 THE PEOPLE v. LOPEZ (Not for Publication)**
The judgment is affirmed. The trial court shall prepare an amended abstract of judgment as directed in this opinion and forward a certified copy of the amended abstract to the Department of Rehabilitation.
RAYE, J.
We Concur: Nicholson, Acting P.J.
Robie, J.
- C052347 THE PEOPLE v. WHITFIELD (Not for Publication)**
The appeal is dismissed.
ROBIE, J.
We Concur: Davis, Acting P.J.
Hull, J.
- C052451 HOWSE v. HOWSE (Not for Publication)**
The order imposing attorney fee sanctions is reversed and the matter remanded for the court to apply the standards in section 271. Appellant is awarded costs on appeal...
ROBIE, J.
We Concur: Morrison, Acting P.J.
Butz, J.
- C052945 ELK GROVE UNIFIED SCHOOL DISTRICT v. WORKER'S COMPENSATION
APPEALS BOARD and STROTH (Not for Publication)**
The award for serious and willful misconduct is annulled.
DAVIS, J.
We Concur: Sims, Acting P.J.
Cantil-Sakauye, J.